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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11	MANUEL GONZALEZ-LEYTON,)	Civil No. 08cv927-L(CAB)
12	Petitioner,)	
13	v.)	ORDER DENYING WITHOUT
14	MICHAEL CHERTOFF, SECRETARY)	PREJUDICE PETITIONER'S
15	OF THE DEPARTMENT OF)	MOTION FOR APPOINTMENT OF
16	HOMELAND SECURITY, <i>et al.</i> ,)	COUNSEL
17	Respondents.)	
18	_____)	

19 On May 23, 2008 Petitioner filed a Petition for Writ of Habeas Corpus under 28 U.S.C.
20 § 2241. He moves for appointment of counsel pursuant to 18 U.S.C. § 3006A, indicating that
21 Federal Defenders of San Diego, Inc., who assisted him in the preparation of the Petition and
22 motion for appointment of counsel, is willing to represent him as his appointed counsel. For the
23 reasons which follow, Petitioner's motion is **DENIED WITHOUT PREJUDICE**.


24 Section 3006A(2)(b) provides that "[w]hen . . . the court determines that the interests
25 of justice so require, representation may be provided for any financially eligible person who is
26 seeking relief under section 2241" The Petition indicates that Petitioner is currently
27 represented by retained counsel on his appeal of the order of removal to the Ninth Circuit Court
28 of Appeal. The court therefore questions his financial eligibility under section 3006A. To make

1 a showing of financial eligibility, Petitioner must file a declaration under 28 U.S.C. § 1915. *See*
2 28 U.S.C. § 1915(e)(1). Although Petitioner has filed a Prison Certificate and Trust Account
3 Withdrawal Authorization, he has not filed the requisite declaration providing a disclosure
4 regarding any other income or assets he may possess. Moreover, Petitioner has not filed any
5 kind of affidavit in support of his motion. Although he signed the motion, he did not sign it
6 under oath and the motion was prepared by Janet Tung of Federal Defenders of San Diego, Inc.
7 Petitioner has not filed an affidavit stating the factual basis why he meets the requirements of
8 section 3006A(2)(b), such as, for example, his educational background, proficiency in the
9 English language, and why the court should appoint counsel for him when he is simultaneously
10 able to support a retained counsel on appeal.

11 For the foregoing reasons Petitioner 's motion for appointment of counsel is **DENIED**. If
12 Petitioner chooses to renew the motion, he must remedy the deficiencies noted herein and
13 provide sufficient factual basis, supported by his affidavit, showing that he meets all the
14 requirements of section 3006A(2)(b).

15 **IT IS SO ORDERED.**

16
17 DATED: May 29, 2008

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19 M. James Lorenz
United States District Court Judge

20 COPY TO:

21 HON. CATHY ANN BENCIVENGO
UNITED STATES MAGISTRATE JUDGE

22 ALL PARTIES/COUNSEL
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